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10/559,860	12/06/2005	Ali Nifuroshan	101663.0001US2	7437
24392 7590 01/05/2009 FISH & ASSOCIATES, PC ROBERT D. FISH 2603 Main Street Suite 1050 Irvine, CA 92614-6232				
EXAMINER				
NGUYEN, SON T				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/559,860

**Applicant(s)**

NILFUROSHAN, ALI

**Examiner**

Son T. Nguyen

**Art Unit**

3643

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 61-68 and 70-74 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 61-68, 70-74 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

1. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claim 72 (2<sup>nd</sup> occurrence) has been renumbered 73. Misnumbered claim 73 has been renumbered 74.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. **Claim 72 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.** The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The added limitation of "wherein the blanket further comprises flaps that cover a horse's neck above a withers region and extending rearward to cover a hindquarter region of the horse". As mentioned before in the final rejection mailed 9/19/08, nothing in the specification or drawings described or

showed any flaps in the neck/withers area of the horse. The flap is only described and shown for wrapping around the leg area of the horse.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. **Claim 68 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.** The phrase "can be" is unclear and indefinite because it does not further defined if the temperature altering device is a series of electrically controlled heating elements or not.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claims 61,63,67,73,74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Uhr (DE20021260U1) in view of Taudauchi et al. (JP410113088A) and Wilson (GB2374535A).** NOTE: claim 73 is actually claim 72 (2<sup>nd</sup> occurrence) as stated in the above claim objections.

For claim 61, Uhr teaches a temperature altering system, comprising: a blanket sized and dimensioned to drape over a horse; first and second pockets disposed on an underside of the blanket, each of which has a cavity that includes a removable temperature altering device. However, Uhr is silent about each pocket of which is freely

positionable about the blanket using hook and loop fasteners, and wherein the first pocket has a first size and the second pocket has a second size that is different from the first size.

Taudauchi et al. teach a temperature altering system, comprising: a removable temperature altering device 21, and each of which is freely positionable about the blanket using hook and loop fasteners 32. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a removable temperature altering device, and each of which is freely positionable about the blanket using hook and loop fasteners as taught by Taudauchi et al. in place of the preferred removable temperature altering device of Uhr in order to allow the user to move the altering device in various different locations as desired.

Wilson teaches a temperature altering system comprising a first pocket (either ref. 1 or ref. 2) having a first size and a second pocket (either ref. 1 or ref. 2) having a second size that is different from the first size (see also Abstract). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ different size pockets as taught by Wilson in the system of Uhr in order to accommodate different sizes of the temperature altering device for different coverage area on the animal.

For claim 63, Uhr as modified by Taudauchi et al. and Wilson (emphasis on Uhr) further teaches wherein the first pocket has a flap 5 disposed to assist in keeping a corresponding one of the temperature altering devices within a cavity of the first pocket.

For claim 67, Uhr as modified by Taudauchi et al. and Wilson (emphasis on Uhr) further teaches wherein the pockets mate with a top side of the blanket (see detailed description, the pockets can be arranged on the inside or outside of the blanket).

For claim 73, Uhr as modified by Taudauchi et al. and Wilson further teaches wherein the first size and dimension of the first pocket is configured to contact the horse's spinal muscles. Note that the pockets of Uhr as modified by Wilson can be or are configured to contact the spinal muscles (see fig. 1 of Uhr and fig. 1 of Wilson for placement and size of the pockets covering the spinal muscles running up/down along the spinal cord).

For claim 74, Uhr as modified by Taudauchi et al. and Wilson further teaches wherein the second size and dimension of the second pocket is configured to contact at least one of the horse's shoulder and hip muscles. Note that the pockets of Uhr as modified by Wilson can be or are configured to contact the shoulder and hip muscles (see fig. 1 of Uhr and fig. 1 of Wilson for placement and size of the pockets covering the shoulder and hip muscles).

**8. Claims 62,66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Uhr as modified by Taudauchi et al. and Wilson as applied to claim 61 above, and further in view of Newman (5271211).**

For claim 62, Uhr as modified by Taudauchi et al. and Wilson is silent about wherein the underside of the blanket includes a wicking material.

Newman teaches an animal cover 24 which includes a wicking material on an underside of the cover (col. 6, lines 25-34). It would have been obvious to one having

ordinary skill in the art at the time the invention was made to employ a wicking material as taught by Newman on the underside of the blanket of Uhr as modified by Taudauchi et al. and Wilson in order to promote evaporation of perspiration away from the body of the animal (col. 6, lines 25-34 of Newman).

For claim 66, in addition to the above, Newman also teaches a temperature reflective material on the top panel 100 of the cover 24 (col. 6, lines 25-36). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a reflective material as taught by Newman on a side adjacent the blanket of Uhr as modified by Taudauchi et al. and Wilson in order to promote heat or sun reflectance (col. 6, lines 35-36 of Newman)

**9. Claim 64 is rejected under 35 U.S.C. 103(a) as being unpatentable over Uhr as modified by Taudauchi et al. and Wilson as applied to claim 61 above, and further in view of Fazio (6443101).**

Uhr as modified by Taudauchi et al. and Wilson is silent about wherein the first pocket has a zipper disposed to assist in keeping a corresponding one of the temperature altering devices within a cavity of the first pocket.

Fazio teaches an animal cover including a pocket 80 with zipper to close the opening 82 of the pocket. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a zipper as taught by Fazio on the pocket of Uhr as modified by Taudauchi et al. and Wilson in order to allow a user to open and close the pocket so that the temperature altering device can be removed or retained in the pockets.

**10. Claim 65 is rejected under 35 U.S.C. 103(a) as being unpatentable over Uhr as modified by Taudauchi et al. and Wilson as applied to claim 61 above, and further in view of Beeghly et al. (5537954).**

Uhr as modified by Taudauchi et al. and Wilson is silent about wherein the first pocket has a button disposed to assist in keeping a corresponding one of the temperature altering devices within a cavity of the first pocket.

Beeghly et al. teach an animal cover having a pocket with a button 36 disposed to assist in keeping a corresponding one of the temperature altering devices within a cavity of the first pocket. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a button as taught by Beeghly et al. on the pocket of Uhr as modified by Taudauchi et al. and Wilson in order to allow a user to open and close the pocket so that the temperature altering device can be removed or retained in the pockets.

**11. Claim 68 is rejected under 35 U.S.C. 103(a) as being unpatentable over Uhr as modified by Taudauchi et al. and Wilson as applied to claim 61 above, and further in view of Schulte (DE4140507A).**

Uhr as modified by Taudauchi et al. and Wilson is silent about the temperature altering device can be a series of electrically controlled heating elements.

Schulte teaches a temperature altering system comprising a series of electrically controlled heating elements 2 that can be controlled by using a thermostat 3 and a switch 5. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a series of electrically controlled heating elements as



taught by Schulte as the preferred temperature altering device in the blanket of Uhr as modified by Taudauchi et al. and Wilson in order to allow the user to control the temperature of the heating elements by using the thermostat and the switch.

**12. Claims 70,72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Uhr as modified by Taudauchi et al. and Wilson as applied to claim 61 above, and further in view of Osborn (233275).**

For claim 70, Uhr as modified by Taudauchi et al. and Wilson is silent about wherein the blanket further comprises a leg flap coupled to a rear portion of the blanket, and including an additional pocket.

Osborn teaches a horse blanket comprising a leg flap G being coupled to a rear portion of the blanket (see fig. 1 of Osborn). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a leg flap as taught by Osborn in the blanket of Uhr as modified by Taudauchi et al. and Wilson in order to further secure the blanket on the horse.

Uhr as modified by Taudauchi et al., Wilson and Osborn is silent about an additional pocket in the flap. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ an additional pocket in the flap of Uhr as modified by Taudauchi et al., Wilson and Osborn, depending on if the animal needs the temperature treatment in the leg area or not.

For claim 72, Uhr as modified by Taudauchi et al. and Wilson is silent about wherein the blanket further comprises flaps that cover a horse's neck above a withers region and extending rearward to cover a hindquarter region of the horse.

Osborn teaches a horse blanket comprising flaps O,E,D,a that cover a horse's neck above a withers region and extending rearward to cover a hindquarter region of the horse. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ flaps that cover a horse's neck above a withers region and extending rearward to cover a hindquarter region of the horse as taught by Osborn in the blanket of Uhr as modified by Taudauchi et al. and Wilson in order to further secure the blanket on the horse.

**13. Claim 71 is rejected under 35 U.S.C. 103(a) as being unpatentable over Uhr as modified by Taudauchi et al. and Wilson as applied to claim 61 above, and further in view of Longtin (2003/0061790A1 ).**

Uhr as modified by Taudauchi et al. and Wilson is silent about wherein the blanket further comprises a detachable neck protrusion, wherein the protrusion includes an additional pocket.

Longtin teaches an animal cover comprising a detachable neck protrusion 14. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a detachable neck protrusion as taught by Longtin in the blanket of Uhr as modified by Taudauchi et al. and Wilson in order to cover the neck area of the animal.

Uhr as modified by Taudauchi et al., Wilson and Longtin is silent about an additional pocket in the neck protrusion. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ an additional pocket in the neck protrusion of Uhr as modified by Taudauchi et al., Wilson and

Longtin, depending on if the animal needs the temperature treatment in the neck area or not.

***Response to Arguments***

14. Applicant's arguments with respect to claims 61-68,70,71 have been considered but are moot in view of the new ground(s) of rejection. However, the 112 <sup>1st</sup> argument will be addressed herein.

**Applicant argued that claims 61-71 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Specifically, the Office rejected the added limitation in claim 61 to "flaps that fit around the horse's neck above a wither's region," as containing subject matter which was not described in the specification because the specification only described the flaps wrapping around the legs and not the neck. (Final Office Action at 2.) The Applicant respectfully disagrees, but has amended claim 61 to remove the rejected limitation.**

Applicant has removed the limitation from claim 61; however, Applicant has added claim 72 to include this limitation and more (i.e. extending rearward to cover a hindquarter region of the horse). Clearly, this whole new limitation is not taught in Applicant's specification nor is it shown in the drawings. In addition, if Applicant disagrees with the rejection, then Applicant needs to point out where in the specification and drawings that show the flaps covering the horse's neck above a withers region and extending rearward to cover a hindquarter region of the horse. Noting that only ref. 12

represents the flap, thus, this flap 12 does not wrap around the neck area nor does it extends rearward from the neck to cover the hindquarter region.

***Conclusion***

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son T. Nguyen whose telephone number is 571-272-6889. The examiner can normally be reached on Mon-Thu from 10:00am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Son T. Nguyen/  
Primary Examiner, Art Unit 3643